



ETHICS IS EVERYBODY'S BUSINESS:

2005 Annual Report on the
Ethical Health of the City of Atlanta

October 2005

Ginny Looney
Ethics Officer

ETHICS IS EVERYBODY'S BUSINESS

EXECUTIVE SUMMARY

The long-term goal of the City of Atlanta's Board of Ethics and Ethics Office is to instill a culture of ethics in city government. Our work for the past two years has focused primarily on bringing the City into compliance with the standards set forth in the City's Code of Ethics. The Board has enforced these ethical standards by issuing advisory opinions and holding hearings on financial disclosure violations. In 2004, the Ethics Office developed employee training programs, advised individuals on the ethics code, and sought compliance with the financial disclosure process. In 2005, the major initiative has been to develop a web-based ethics efilg system with online forms and a public search function to view the information disclosed by officials and employees. In 2006, the Ethics Office and Board will strengthen their enforcement efforts in several strategic ways: establishing the IntegrityLine, promoting this hotline with a public awareness campaign, investigating reported ethics violations, and prosecuting violators. Although it will require more education, resources, collaboration, and commitment from the City of Atlanta, a culture of ethics in city government is an attainable goal.

RECOMMENDATIONS

The Ethics Officer makes the following recommendations for action by Mayor Shirley Franklin, Council President Lisa Borders, members of the Atlanta City Council, and department heads:

1. *Launch the Year of Integrity Matters* by:
 - a. Instituting the IntegrityLine
 - b. Promoting the hotline through an Integrity Matters campaign
 - c. Establishing the City of Atlanta Public Integrity Unit with adequate staff and accessible office space
2. *Enact an ordinance requiring paid lobbyists to register* with the City of Atlanta's Ethics Office
3. *Make compliance with the City's Code of Ethics* a critical part of the performance review of department heads and other supervisors
4. *Improve the public's access to online disclosure forms* by:
 - a. Enhancing the public search function of the efilg system
 - b. Disclosing on online forms, as required by law, conflicts of interest, gifts to the City, and expenses paid by prohibited sources
 - c. Providing access to the online forms to enable affected city employees to file online
5. *Require mandatory ethics training* within the next three years for the officials and employees required to file financial disclosure statements

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MAJOR ACHIEVEMENTS

Since the opening of the Ethics Office two years ago, the Ethics Officer has concentrated on educating and advising city officials and employees about the City's required ethical standards, bringing the City into compliance with the financial reporting requirements, and initiating a web-based filing and disclosure system for city ethics forms. During the same period, the Board of Ethics, in conjunction with the Ethics Officer, has focused on interpreting the Code of Ethics through formal advisory opinions and enforcing the financial disclosure requirements. Specifically, the Board and Ethics Office have achieved the following:

1. Launched a City of Atlanta efilg system that permits citizens to review online the income and assets of city officials and employees, their conflicts of interests, gifts received by the City, hosting expenses paid by prohibited sources, and candidates' campaign contributions
2. Increased to 96 percent the number of persons who filed their annual financial disclosure statement in a timely manner, with an overall filing rate that exceeds 99 percent
3. Rendered 14 formal advisory opinions that have raised the standards of conduct related to conflicts of interest, doing business with the City, gratuities, outside employment, post-employment, solicitations, and use of city property
4. Advised elected officials, city employees, board members, neighborhood planning unit officers, and city contractors in 400 cases
5. Provided ethics training to more than 1,000 new employees and 600 supervisors and inspectors

CODE OF ETHICS

Four years ago, after the last city elections, Mayor-elect Shirley Franklin appointed the Ethics Task Force to recommend ways to instill a "culture of ethics" within city government. The task force recommended banning gifts to city officials and employees, restricting outside income for top managers, strengthening the disciplinary authority of the Board of Ethics, and creating a full-time salaried employee to serve as Ethics Officer. Adopting these changes, the Atlanta City Council amended the Standards of Conduct in the Code of Ordinances in 2002 and established a new, independent Board of Ethics whose members are selected by civic groups. The Board hired the inaugural Ethics Officer in 2003.

The Code of Ethics, comprising 24 sections in the Code of Ordinances, sets minimum standards of permissible behavior by city officials and employees.

Section 2-802 states three specific purposes: (1) protect the integrity of government by prohibiting conflicts of interest; (2) require public disclosure of assets and income of elected officials and certain employees; and (3) provide a fair process for addressing ethical questions and disciplining violators. The Code of Ethics gives the Board of Ethics and Ethics Office the responsibility of resolving issues that create actual or potential conflicts of interest. Their jurisdiction covers:

- Gratuities and gifts
- Travel, meals, and refreshments
- Tickets
- Use of city time, services, and property
- Outside investments
- Extra jobs and outside employment
- Doing business with the City
- Solicitations
- Use of confidential information
- Financial disclosure
- Representing private interests before city agencies
- One-year post-employment rule

To address these issues, the Board has authority to issue advisory opinions, administer the financial disclosure process, investigate allegations of ethics violations, hold hearings on ethics complaints, and impose punishment on persons found in violation of the Code of Ethics.

The duties of the Ethics Officer are to educate and train city officials and employees about ethical conduct, advise them about the provisions of the ethics code, review financial disclosure statements for compliance, investigate complaints of ethics violations, assist the Board of Ethics, and report on the financial disclosure process and ethical health of the City.

WORK OF THE BOARD AND ETHICS OFFICE

Training

The systematic incorporation of ethics training for new employees into the routines of city government has been a significant achievement of the Ethics Office. With the support of the Department of Human Resources, the Ethics Officer immediately began conducting a one-hour session on the ethics code as part of the orientation program for new employees. Since October 2003, the Ethics Officer has conducted 19 monthly training programs and taught more than 1,000 new employees. In addition, the Ethics Officer has made presentations on the Code of Ethics to more than 600 managers, supervisors, and inspectors. These presentations, which are constantly evolving, have ranged from a 15-minute overview to 300 supervisors in the Department of Watershed Management to a three-hour presentation to all Department of Corrections supervisors.

This training focuses on ethical dilemmas that city employees typically face with regard to gratuities, outside employment, and use of city property. Using case studies, the Ethics Officer presents a short vignette that raises an ethical question, leads a discussion in which participants examine the issue, and then explains how the Board or Ethics Officer decided the issue. The aim is for employees to think critically about various situations so that they can identify and resolve potential conflicts as they arise in the workplace.

Figure 1: Training Vignette Used with New Employees

The Repair Shop Owner



A supervisor who recommends when the city's motorcycles should be declared surplus operates a vehicle repair shop. May he buy the surplus motorcycles at a public auction?

While ethics training is now a routine part of the orientation program for new employees, the City has not yet incorporated ethics into training for other employees or for city officials, elected and appointed. Even after Mayor Franklin requested that each department schedule ethics training, only three departments did. Moreover, ethics training is too often included as one part in a day-long program where the allotted time allows little more than a recitation of the prohibitions listed in the ethics code. As a result, the training is not reaching the numbers of employees that it should. Its length prevents a comprehensive review of all standards, and there is no ethics training for appointed board members or neighborhood planning unit officers.

To have an effective education program, the Ethics Office plans to promote its training program more vigorously and develop an online segment, but department heads must make ethics training a higher priority for their employees, and employees and officials must commit their time to attending a training class. In addition, the City needs to establish a procedure for informing city employees at the time they are employed about the financial disclosure requirement, if applicable, and having them sign a statement in which they agree to abide by the City's Code of Ethics.

Finally, the City needs to establish, as part of the performance review of all department heads and other supervisors, an assessment of their efforts to ensure compliance in their department with the City's ethical standards. This evaluation would review their efforts to include ethics as part of the department's training program, seek guidance from the Board and Ethics Office, review employees' outside employment, discipline employees for the use of city property for personal gain, investigate and discipline other ethics violators, and routinely complete online ethics forms. Preserving ethical government is no less important than maintaining efficient government.

Public Education

In addition to training, the Ethics Officer has written two primary documents to explain the City's ethical standards. The four-page *Ethical Standards for City Employees* is distributed each month at the New Employee Orientation. The handout, *Ethical Standards for City Board Members*, was mailed in September 2004 to all members of city boards and city appointees to other public boards. Since then, the Office of the Mayor and the Atlanta City Council have distributed it to new board members at the time of their appointment. Like the ethics training programs, these standards provide examples to illustrate how each code provision applies in a practical situation.

Figure 2: Ethical Standard on Employees' Outside Employment

<p><u><i>Outside employment.</i></u> City employees may not engage in private employment, including self-employment, or render services for private interests when the employment is adverse to and incompatible with the proper discharge of the employee's official duties. See § 2-820 (b).</p>
<p><i>Example: An automotive technician supervisor who operates a private repair shop cannot purchase the city's surplus motorcycles at the city's public auction because he makes the initial recommendation about when the vehicles should be replaced rather than repaired.</i></p>

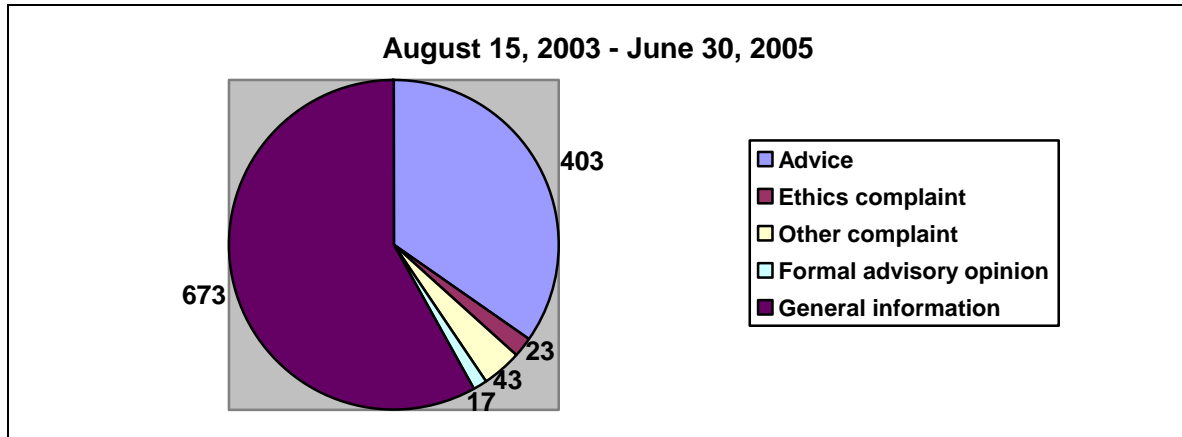
Another key way that the Ethics Office educates the public is through the Board's website and the City of Atlanta efilings system. At the website, a person may obtain the Code of Ethics; the Board's formal advisory opinions; the Board's forms, rules, and procedures; the Ethics Office's reports; and information about the Board and the financial disclosure process. The website is located at <http://www.atlantaga.gov/government/boards/boardofethics.aspx>. The web-based efilings system allows a citizen to search the ethics forms that employees and officials have filed online disclosing their income and assets, conflicts of interests, gifts received on behalf of the City, and expenses paid by prohibited sources; it also gives access to campaign contribution reports filed electronically by candidates. The efilings system is located at <https://apps.atlantaga.gov/efile/>.

Advice

Ethics Officer's Informal Advice

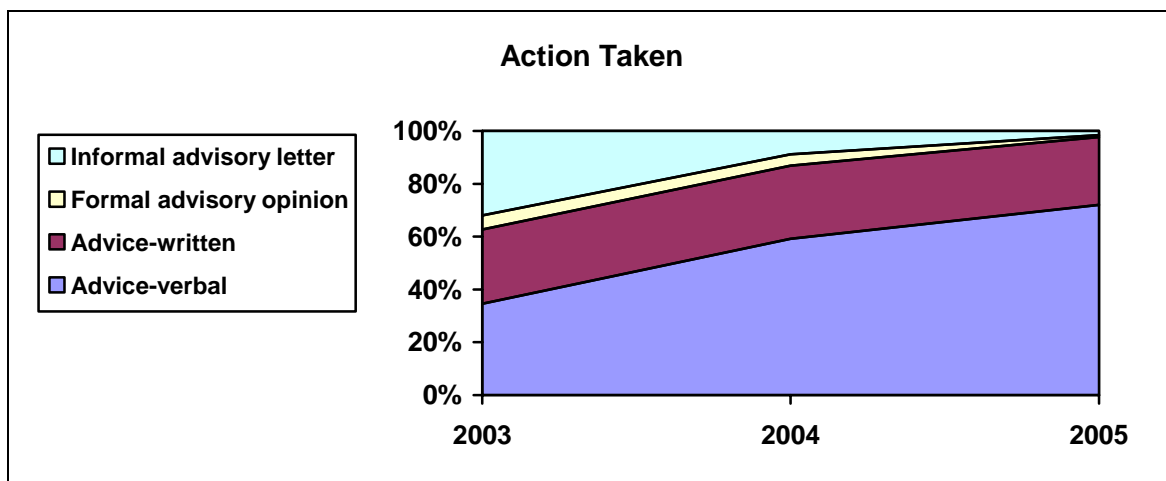
Another critical role of the Ethics Office is to provide advice and guidance to city officials and employees on the City's ethical standards. In the first two years of operation, the Ethics Office received 1,159 inquiries. See Figure 3.

Figure 3: Types of Inquiries Received



One third of the inquiries were requests for advice. The Ethics Officer wrote 45 informal advisory letters, gave written advice in 113 additional cases, and advised 245 other persons over the telephone or in person. As the Ethics Office has resolved more issues, the number of inquiries handled informally through telephone calls and emails has increased and the proportion of formal written responses has decreased. See Figure 4.

Figure 4: Types of Advice Given



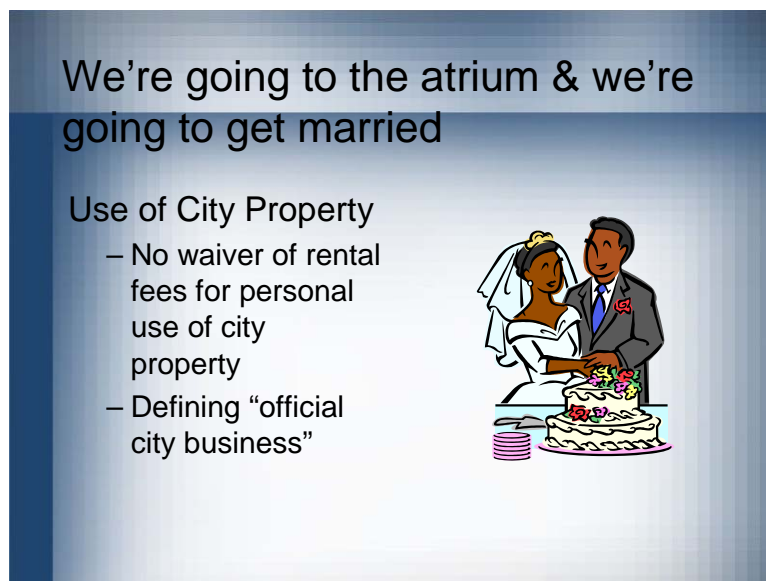
Board's Formal Advisory Opinions

Another achievement of the Board and Ethics Office has been the setting of clear, fair, and reasonable rules through the formal advisory opinion process. The Board has rendered 14 formal opinions. Unlike the advice sought from the Ethics Officer, the requests for Board opinions must be in writing and come from a city official or employee who is personally involved in a matter requiring interpretation of the code. In addition, the Board's rules permit the Ethics Officer to bring any inquiry involving a novel, recurring, or unsettled issue before the Board for its consideration, which she has done seven times.

The Board's two opinions on the use of city property illustrate how its work has promoted a culture of ethics by redefining the minimum standard of acceptable conduct within City Hall. Two years ago, some city councilmembers were reserving the atrium for private weddings, park pavilions for church groups, and the old city council chambers for non-profit groups, to save them the customary rental fee charged the public. The then-acting Commissioner of Parks, Recreation, and Cultural Affairs asked the Board to address whether the department could waive the rental fee for use of its facilities when requested by members of the Atlanta City Council on behalf of their constituents, friends, family members, and non-profit organizations.

The Board concluded that a city official is not entitled to a waiver of any rental fee for the personal use of private property or for the use of any other private entity on terms that are not available to the general public. As a result of the opinion, the City stopped its practice of providing city facilities to individual citizens or groups without charge when the reservation was made by or through a councilmember or council staff.

Figure 5: Raising Ethical Standards through Board Opinions



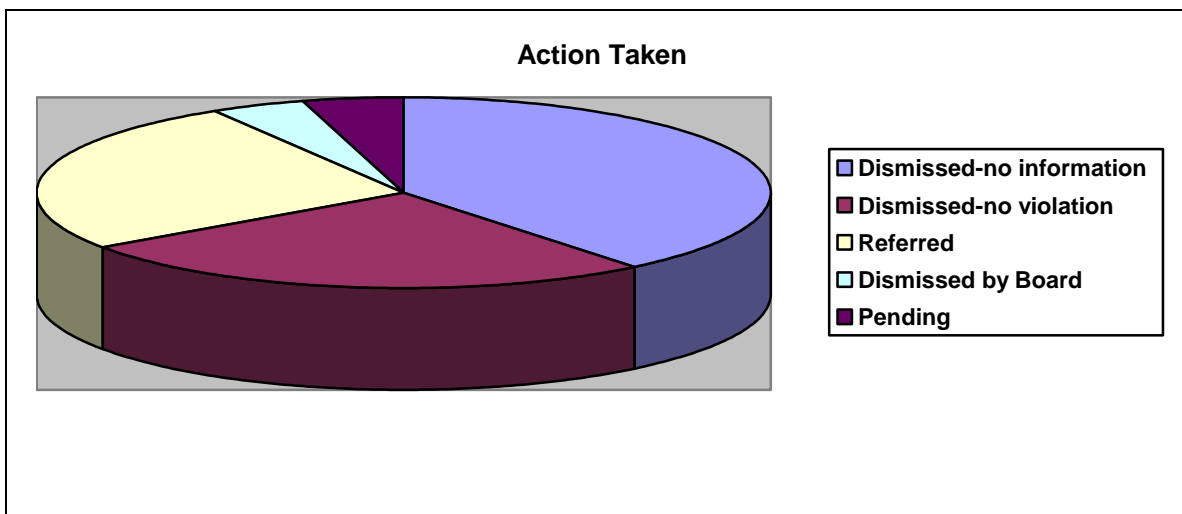
Subsequently, a councilmember requested the Board to address an exception that permits city officials to use city property for official city business. Appearing before the Board, Councilmember Derrick Boazman argued in essence that “official city business” occurred whenever the mayor or a city councilmember held a press conference, hosted a reception, or sponsored a community anti-drug rally. The Board took a more narrow approach, concluding that “official city business” means city officials acting in an official capacity and performing official duties on behalf of the City. This second opinion changed the assumption by some in City Hall that elected officials are doing the City’s business and may use city property whenever they attend a meeting or sponsor an event for the good of their district or community.

As these illustrations show, the Board’s opinions can be a useful way to raise the minimum standards of conduct expected of city officials and employees. The opinions have a more powerful effect when an official or department head requests the opinion, and the issue applies to more than one individual or case. Therefore, the Ethics Officer encourages elected officials, department heads, and board chairs to seek advisory opinions when there is uncertainty or disagreement about the best policy within their office, department, or board.

Complaints and Investigations

The Ethics Office is also responsible for investigating allegations of ethics violations. The office has not fulfilled this duty adequately due to the lack of resources and the need to develop a compliant financial disclosure program. To date, there have been 66 complaints made to the Ethics Office by letter, telephone, or email. Two-thirds of these complaints were allegations of wrongdoing that did not involve any person or matter invoking the ethics code; these allegations included complaints of employment discrimination, rude employees, unfair supervisors, closed meetings, and illegal booting of cars. Of the remaining 23 complaints, the subjects were use of city property (13), conflicts of interest (6), solicitations (2), outside employment (1), and post-employment (1). Generally there was insufficient information, resources, or wrongdoing: the Ethics Officer dismissed six complaints because there was no ethical violation and dismissed nine others due to lack of information or resources to investigate; the Board dismissed one complaint for lack of probable cause. The Ethics Office referred six complaints to departments for investigation, which resulted in two employees being disciplined. One investigation is pending.

Figure 6: Ethics Complaints



Outside the area of financial disclosure statements, the Ethics Officer has brought no enforcement action before the Board. Clearly, the City and Ethics Office need to devote more time and resources to encouraging the reporting of ethical violations, investigating those complaints, and prosecuting wrongdoers. To have a comprehensive ethics program, there must be a strong enforcement effort to complement the existing training, public education, and advisory opinions.

IntegrityLine

To remedy this weakness, the Ethics Office is working to establish an effective ethics hotline in 2006. Known as the IntegrityLine, this hotline will enable city employees and citizens to make complaints and anonymous tips on ethical violations, fraud, and employee misconduct. The calls will come to trained interviewers in a call center, operated by an outside company. Reports on each call will be reviewed and investigated or referred to the appropriate department for action. The IntegrityLine is a collaborative effort by the Ethics Officer, Internal Auditor, and Compliance Manager.

The IntegrityLine will be launched through a public awareness campaign: 'Integrity Matters.' The campaign will educate employees and the general public about the hotline through training programs and a variety of media, such as letters, brochures, posters, and wallet cards. To be most effective, the City's elected officials, especially Mayor Franklin, need to be involved in the promotional campaign to encourage the use of the hotline for reporting misconduct and to evidence the City's continuing commitment to an open, honest, and ethical government.

In addition to having an outside call center and an awareness campaign, a successful hotline program requires a prompt, appropriate, and effective response

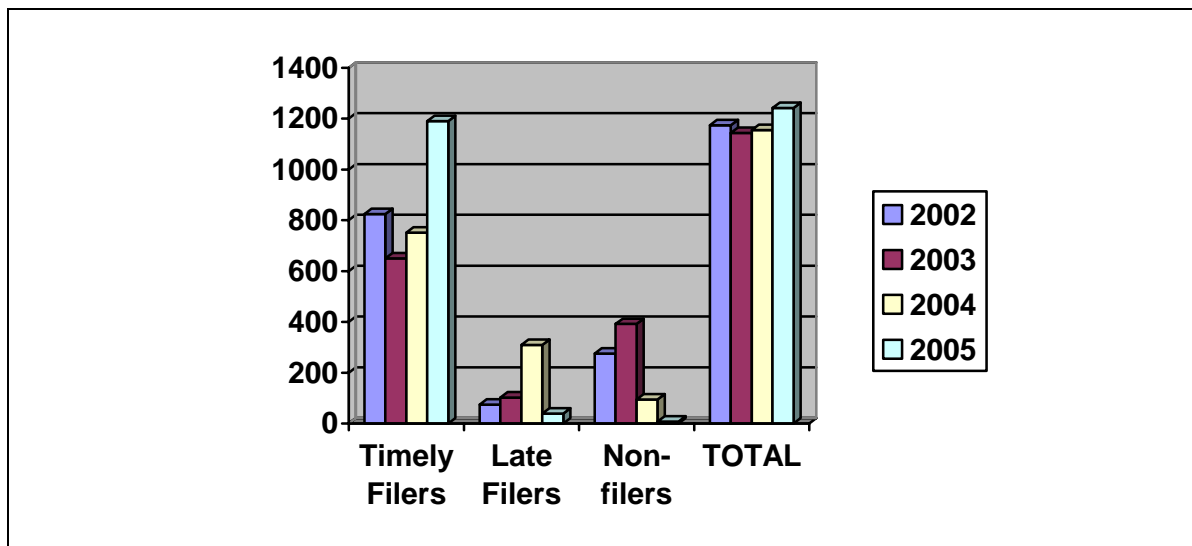
to complaints received. Towards that end, the Ethics Office is seeking funding for an Ethics and Audit Investigator to investigate ethical violations, fraud, waste, and financial mismanagement. This investigator will be shared with the Office of the Internal Auditor. Other complaints will be investigated by the Law Department or referred to other departments for their review and response.

Financial Disclosure

Improved Filing Rates

Both the Board of Ethics and Ethics Officer have worked diligently and persistently to gain compliance with filing requirements. As a result, the City has increased its rate of timely filers from 70 percent in 2002 to 96 percent in 2005, with the percentage of late filers reduced to three percent and non-filers reduced to less than one percent. During the same period, the overall filing rate has risen from 77 percent to 99 percent.

Figure 7: Comparison of Disclosure Filings



Even more significantly, the Ethics Office reviewed the financial statements for accuracy and completeness for the first time in 2005. This review revealed that too many individuals omitted critical information, such as their employment positions, income sources, and property. The Ethics Office sent correction notices to approximately 250 filers and contacted nearly 300 persons to seek more information. Because officials and employees are not yet disclosing accurate and complete information in their original filing, the Ethics Office has requested funds for the hiring of a temporary analyst again in 2006 and for the creation of a senior administrative analyst position in the Ethics Office to review the statements and help enforce the filing requirements in subsequent years.

Ethics Efilng System

The Ethics Office's top initiative for 2005 has been to implement a web-based filing system for financial disclosure forms, as recommended by the task force. The efilng system permits citizens to review the financial information disclosed by officials, employees, and candidates who file online. Included in the current system are four city forms and one state form.

Figure 8: Ethics Forms Available Online

Form	Information Disclosed
City Financial Disclosure Statements	Employment positions, income sources, family benefits derived from city transactions, property ownership
City Gift Reports	Gifts received on behalf of the City
Expense Reimbursement Forms	Hosting expenses (travel, meals, lodging) paid by prohibited sources
Conflicts of Interest Disclosure Statements	Matters in which an individual is disqualified due to financial or personal interests
State Campaign Contribution Disclosure Reports	Campaign contributions and expenditures

The efilng system was developed in conjunction with the Municipal Clerk, who is responsible for the reports required under state law; the Department of Information Technology, which provides technical support; and an outside vendor. The efilng system is located at <https://apps.atlantaga.gov/efile>.

The goal of the efilng project is to give citizens better access to ethics disclosure forms. The search feature enables the public to review online the assets and income sources of city officials and employees and the campaign contributions made to candidates and their campaign committees. For example, citizens can view in .pdf format the campaign finance data of candidates for municipal office in this year's elections, determine the candidates who have received contributions from specific developers and city contractors, and discover which city employees earned income in 2004 from companies doing business with the City. With this information, citizens are empowered to make more informed decisions in voting and to hold public officials accountable for their actions. The disclosure forms may be viewed at <https://apps.atlantaga.gov/efile/search.asp>.

While the City has achieved considerable success in obtaining the filing of annual financial disclosure statements and electronic filing of campaign reports, many more challenges remain to attain a full disclosure system. If a citizen were to conduct a search for other disclosure forms in the efilng system, he or she would currently find just two gift reports, one conflicts disclosure form, and no expense reimbursement reports. City officials and employees must help fulfill their commitment to an open and transparent government by becoming familiar with the

ethics disclosure requirements and by routinely filing these online forms which disclose gifts to the City, expense reimbursements, and conflicts of interest.

Because online forms are more complete, take less time to review, and eliminate many costs related to paper forms, the Board has voted to require mandatory online filing of city financial disclosure statements in 2006 by all city elected officials and employees who are required to file. To meet this requirement, the Ethics Office is committed to helping employees complete the form online, but will also need help from departments to ensure that all affected employees have access to computers with the online form during normal working hours.

Finally, the City needs to enhance the public search feature of the efilg system to enable citizens to search by any criterion or multiple criteria. This feature of the efilg system is a powerful tool that arms citizens with vital facts about the way our city operates, but improvements are needed so that all of the information disclosed on the forms is publicly available. In summary, the Ethics Office is committed to improving the efilg system and to educating individuals about its forms, but both employees and elected officials also must assume responsibility to learn about the forms and complete them as required by law.

Lobbyist Registration

Free and open access to city government is an important matter of public interest. Due to the complexity and amount of legislation that comes before the Atlanta City Council, individuals and businesses may hire persons with knowledge about the legislative process to present their views. Lobbying is a legitimate activity. Yet, it is essential to a free and open process that elected officials and citizens know who is coming before the city council to influence legislation.

The City of Atlanta does not currently require lobbyists to register with the City or wear identification badges. State law requires lobbyists at the local level to register with the State Ethics Commission, but the commission does not require these lobbyists to identify the specific municipality, county, or school board that they intend to influence. With the establishment of the ethics efilg system, the City now has a mechanism for requiring paid lobbyists to register and give citizens easy access to information about whom the lobbyists represent.

As a result, the Board of Ethics has voted to recommend that lobbyists at City Hall be required to register with the City's Ethics Office as part of the efilg disclosure system. This requirement will affirm the City's commitment to an open and ethical government without placing any substantial burden on its resources.

INSTILLING A CULTURE OF ETHICS

The long-term goal of the Board of Ethics and Ethics Office is to instill a culture of ethics in city government. The work done over the past three years, however, has focused instead on establishing the system for public disclosure and bringing the City into compliance with the Code's Standards of Conduct. The City of Atlanta has "a strong and highly ethical 'tone at the top,'" as the external auditors wrote, but more than moral leadership is required.

Instilling a culture of ethics will require more discussion, further education, adequate resources, continued collaboration, and sustained commitment from the City. Mayor Shirley Franklin, Council President Lisa Borders, and members of the Atlanta City Council must lead with integrity and by example. The Board of Ethics must continue to define what is meant by "an ethical culture" in city government and seek the support of its appointing authorities in the effort. Department heads and other managers must understand the Standards of Conduct, ensure proper training for employees who report to them, ask for guidance when needed, urge employees to speak up about misconduct, and report violations to the IntegrityLine. City employees and board members must aspire to exceed the minimum standards in the code and infuse values like trustworthiness, respect, responsibility, and fairness into the daily operations of city government. Citizens must gain full access to information about the financial and personal interests of officials, employees, and candidates. In short, ethics must be everybody's business.

RECOMMENDATIONS

To support a culture of ethics, the following recommendations are made for action by Mayor Franklin, President Borders, member of the Atlanta City Council, and department heads:

1. *Launch the Year of 'Integrity Matters' by:*
 - a. Instituting the IntegrityLine
 - b. Promoting the hotline through the 'Integrity Matters' campaign
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APPENDICES

A -- Members of the City Board of Ethics, 2002 to 2005

B -- Report by City Ethics Officer on First Two Years of Operation

C -- Ethics Office Work Plan for 2005 to 2007



CITY OF ATLANTA

Shirley Franklin, Mayor

ATLANTA CITY COUNCIL

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Carla Smith

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John D. Marshall, Jr., Chairperson

Kenyatta Mitchell, Vice-Chairperson

Leah Janus

Lawrence S. Levin

Jacquee Minor

Robert B. Remar

Ginny Looney, Ethics Officer

68 Mitchell Street, SW, Suite 3180

Atlanta, Georgia 30303

404.330.6286

Fax: 404.658.7720

Email: ethicsofficer@atlantaga.gov

Website: <http://www.atlantaga.gov/government/boards/boardofethics.aspx>